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BEFORE THE
Federal Communications Commission
WASHINGTON, D.C. 20554

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In the Matter of)
)
Amendment of Section 73.202(b)) MM Docket No. 97-106
Table of Allotments) RM-9044
FM Broadcast Stations)
(Cheyenne, Wyoming and Gering,)
Nebraska))

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MAY 19 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

TO: Chief, Allocations Branch
Policy and Rule Division
Mass Media Bureau

COMMENTS OF
MONTGOMERY BROADCASTING LIMITED LIABILITY COMPANY

MONTGOMERY BROADCASTING LIMITED LIABILITY COMPANY

("Montgomery"), pursuant to Sections 73.202(b), 1.415 and 1.420 of the Commission's Rules, and pursuant to Section 303 of the Communications Act of 1934, as amended, and pursuant to the applicable provisions of the Notice of Proposed Rule Making and Order to Show Cause in MM Docket No. 97-106 (RM-9044), ___ FCC Rcd ___, DA 97-585. (Allocations Branch, Policy and Rules Division,. Mass Media Bureau released March 28, 1997) ("Notice"), by its attorneys, hereby submits its instant Comments in opposition to the proposal of the Allocations Branch of the Policy and Rules Division as set forth in the aforementioned Notice, to allot Channel 280C2 at Cheyenne, Wyoming, as that community's potential 7th local FM transmission service, and, to accommodate the allotment, to substitute Channel 239C3 instead of Channel 280C3 in Gering, Nebraska, and to modify the license of Radio Station KOLT-FM, Gering, Nebraska, to specify operations on FM Channel 239C3 in lieu of operations on Channel

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280C3 in Gering, Nebraska. The petitioner seeking such changes, according to the Notice, was TSB II, Inc.¹ In support whereof, it is shown as follows:

Annexed hereto as Exhibit 1 is a partial listing of the broadcast interests of Jacor Broadcasting (“Jacor”) or its affiliates in the Denver-Fort Collins-Cheyenne, Wyoming radio markets.

Presently pending before the Commission are applications for Commission consent to the acquisition by Jacor or its affiliates of four radio stations licensed to Magic City Media, Inc. (“Magic”). Annexed hereto as Exhibit 2 is the listing of stations which Jacor or one of its affiliates will own along the Front Range of Colorado and Wyoming if the Magic City acquisition is approved and is consummated. As shown therein, Jacor or its affiliates will own or control 16 commercial radio broadcasting stations within a 100-mile stretch of Interstate Route 25 from Cheyenne, Wyoming, to Denver Colorado, including six AM stations (including two 50,000 Watt stations) and 10 FM stations (nine of which are either Class C or Class C1 in facilities).

It is clear from the attached list of stations and their respective entertainment formats that Jacor is attempting to dominate both the news/talk and the rock entertainment formats in radio in

¹ It is Montgomery’s understanding that the licensee of Radio Station KOLT-FM, Gering, Nebraska, is Tracy Broadcasting Corporation. See Report No. 43907, dated January 13, 1997. It is also Montgomery’s understanding that that station is controlled by Jacor or one of its affiliates.

the Cheyenne, Wyoming - Denver, Colorado part of the United States. Adoption of the instant rulemaking proposal would exacerbate these onerous conditions

All six of the AM stations that Jacor will own or control are presently or will be programmed with some type of news/talk programming entertainment format. This fact, combined with the purchase by a Jacor affiliate of EFM and of Premier Radio Networks, places Jacor in a unique position to dominate the news/talk entertainment format in the Cheyenne-Denver Front Range area, both horizontally, through ownership of broadcast stations and vertically through ownership of the syndicated programs themselves. Furthermore, this dominant position is exacerbated by the dial positions of the AM stations: i.e., 630, 650, 760, 850, 1190 and 1410.

By owning these six news/talk stations, Jacor will also have a unique opportunity to dominate the live sports programming in the greater Cheyenne-Denver area. Jacor or its affiliates already own or control the live broadcasting rights to the Denver Broncos, the Colorado Rockies, the University of Colorado Buffaloes, and the University of Wyoming Cowboys. The four best sports teams in the greater Cheyenne-Denver area are the foregoing, and Jacor or one of its affiliates has the right to determine the affiliates on the respective radio broadcasting networks carrying these sport teams. If these sporting events are placed on Jacor's stations, Jacor will completely dominate live sports programming in the Denver/Fort Collins- Cheyenne, Wyoming area.

With respect to FM radio stations, seven of Jacor's 10 FM radio stations are presently programming some type of rock entertainment format. Additionally, six of those seven stations will be Class C FM stations, with the potential for overlapping signals between all six. The entertainment formats on these stations cover almost all segments of the rock format, from alternative classic rock to adult contemporary. Additionally, it is Montgomery's understanding that Radio Station KHIH(FM) in Denver may be changing from a new wave jazz entertainment format to some form of rock programming in the near future. Such a change would leave eight of Jacor's 10 FM stations programming some kind of rock entertainment programming, with seven of the eight broadcasting with Class C technical facilities.

Last Monday, May 12, 1997, Radio Station KGAB(AM), Orchard Valley, Wyoming, which is part of the four-station proposed purchase by Jacor or its affiliates of Magic City Media, Inc.² changed entertainment formats from the simulcast of Radio Station KIGN(FM), Cheyenne, Wyoming, to double programming consisting of news and talk. This is hardly surprising in light of KGAB(AM)'s call letters which connote a talk/entertainment format. See Exhibit 3, infra.

Under these circumstances, the Mass Media Bureau should not approve the channel allotment arrangement proposed in the Commission's aforementioned Notice, since this result

² Those radio stations involved in that purchase are the following: KGAB(AM), Orange Valley, Wyoming; KIGN(FM), Cheyenne, Wyoming; KOLZ(FM), Cheyenne, Wyoming; and KLEN(FM), Cheyenne, Wyoming. Applications for consent to those sales to Jacor affiliates or subsidiaries are still pending to Montgomery's market.

will benefit Jacor further. The Notice should therefore be dismissed or denied without consideration.

Respectfully submitted,

MONTGOMERY BROADCASTING LIMITED
LIABILITY COMPANY

By: 

Irving Gastfreund

Kaye, Scholer, Fierman, Hays & Handler, LLP
901 15th Street, N.W., Suite 1100

Washington, D.C. 20005

(202) 682-3526

Its Attorneys

May 19, 1997

Exhibit 1

Montgomery Broadcasting, L.L.C.

1806 Capitol Avenue
Cheyenne, WY 82001
(307) 634-4461

Jacor AM's in the Denver/Fort Collins/Cheyenne markets

KOA (Denver)
850 Khz
50,000 watts clear channel
News/Talk

KTLK (Thornton)
760 Khz
50,000 watts (daytime), 1,000 watts (nights)
News/Talk

KHOW (Denver)
630 Khz
5,000 watts
News/Talk

KGAB (Orchard Valley, Wyoming)
650 Khz
8,500 watts (daytime), 1,000 watts (nights)
Presently simulcasting KIGN -FM, projected to go News/Talk

KBCO-AM (Boulder)
1190 Khz
5,000 watts (daytime), 1,000 watts (nights)
News/Talk

KCOL (Fort Collins)
1410 Khz
1,000 watts
News/Talk

Jacor FM's in the Denver/Fort Collins/Cheyenne Market

KTCL (Fort Collins)
93.3
100,000 watts, Class C
Alternative Rock

KHIH (Denver)
95.7
100,000 watts, Class C1
New Age Jazz

KFBC
AM 1240

Wise Buys
A Smart Economy is Your Shopping Guide

MX
FM 105.5

Montgomery Broadcasting, L.L.C.

1806 Capitol Avenue
Cheyenne, WY 82001
(307) 634-4461

KGLL (Greeley)
96.1
100,000 watts, Class C1
Country

KBCO-FM (Boulder)
97.3
100,000 watts, Class C
Adult AOR

KIGN (Cheyenne)
97.9
100,000 watts, Class C
Adult Contemporary

KOLZ (Cheyenne)
100.7
100,000 watts, Class C
Country

KXFX (Denver)
103.5
100,000 watts, Class C
Classic Rock

KLEN (Cheyenne)
106.3
6000 watts, Class A
Light Adult Contemporary

KBPI
106.7
100,000 watts, Class C
Album Oriented Rock

KPAW (Fort Collins)
107.9
100,000 watts, Class C1
Top 40 Rock

KFBC
AM 1240

Wise Buys
Always Compare Prices Before Buying

MX
FM 105.5

Jacor AM's in the Denver/Fort Collins/Cheyenne markets

KOA (Denver)
850 Khz
50,000 watts clear channel
News/Talk

KTLK (Thornton)
760 Khz
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News/Talk

KHOW (Denver)
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KPAW (Fort Collins)
107.9
100,000 watts, Class C1
Top 40 Rock

Exhibit 2

The Arbitron Company
 CHEYENNE, WY RANKER
 Persons 12+ In The Metro
 Mo- Su 6am- MID
 User Selected Stations, Ranked by: Average Quarter-Hour Share
 SPRING 1996
 Sample Size: 380 Estimated Population(00): 642

STATIONS	AQH(00) PERSONS	AQH RATING	AQH SHARE	CUME(00) PERSONS	CUME RATING
Jacor	55	8.6	52.4	455	70.9
KMUS-FM	15	2.3	14.3	197	30.7
KFBC-AM #	8	1.2	7.6	108	16.8
KRAE-AM	4	0.6	3.8	65	10.1
KRQU-FM	3	0.5	2.9	70	10.9
KCGY-FM	1	0.2	1.0	26	4.0
MARKET TOTAL	105	16.4	100.0	610	95.0

Audience estimates adjusted for actual broadcast schedule.

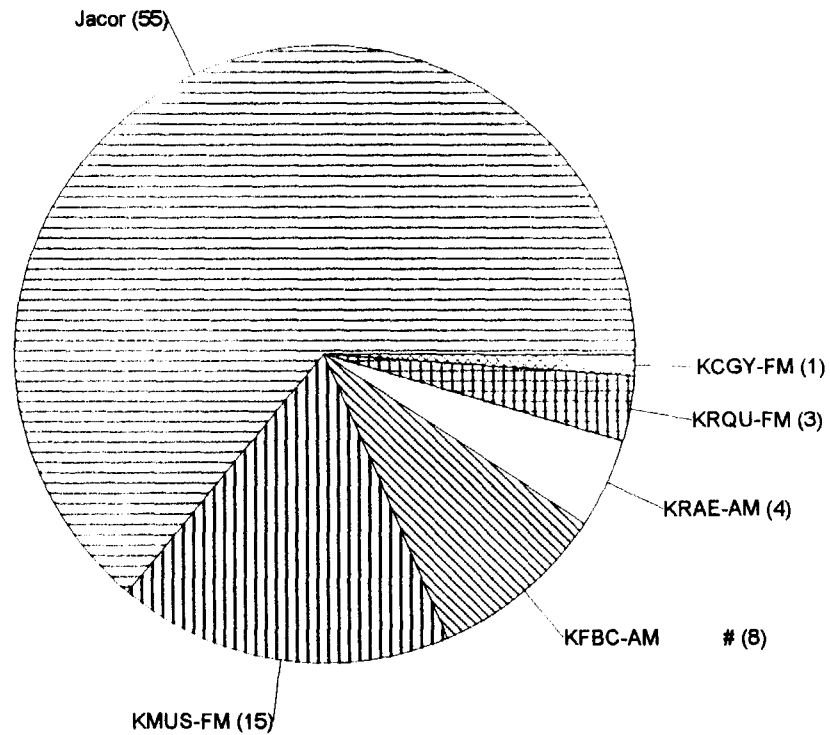
Jacor: KBPI-FM, KIGN-FM, KKAZ-FM, KLEN-FM, KOA -AM, KPAW-FM, KRFX-FM, KTCL-FM

Stations qualify to be reported if they have received five or more minutes of listening in at least 10 diaries in the market, Monday-Sunday, 6am-Midnight, during the survey period.

Estimates are derived from the diaries that provided the audience data for the Market Report and are subject to the limitations stated in that Report. Due to these limitations, inherent in Arbitron's methodology, the accuracy of Arbitron audience estimates cannot be determined to any precise mathematical value or definition. This service is not part of Arbitron's regular syndicated service. The MAXIMISER service is accredited by the Electronic Media Rating Council (EMRC).

CHEYENNE, WY RANKER

**Persons 12+ In The Metro
Mo- Su 6am- MID**



SPRING 1996

The Arbitron Company
 CHEYENNE, WY RANKER
 Persons 18+ In The Metro
 Mo- Su 6am- MID
 User Selected Stations, Ranked by: Average Quarter-Hour Share
 SPRING 1996
 Sample Size: 332 Estimated Population(00): 573

STATIONS	AQH(00) PERSONS	AQH RATING	AQH SHARE	CUME(00) PERSONS	CUME RATING
-----	-----	-----	-----	-----	-----
Jacor	52	9.1	53.1	401	70.0
KMUS-FM	14	2.4	14.3	170	29.7
KFBC-AM #	8	1.4	8.2	108	18.8
KRAE-AM	4	0.7	4.1	65	11.3
KRQU-FM	2	0.3	2.0	65	11.3
KCGY-FM	1	0.2	1.0	21	3.7
-----	-----	-----	-----	-----	-----
MARKET TOTAL	98	17.1	100.0	544	94.9

Audience estimates adjusted for actual broadcast schedule.

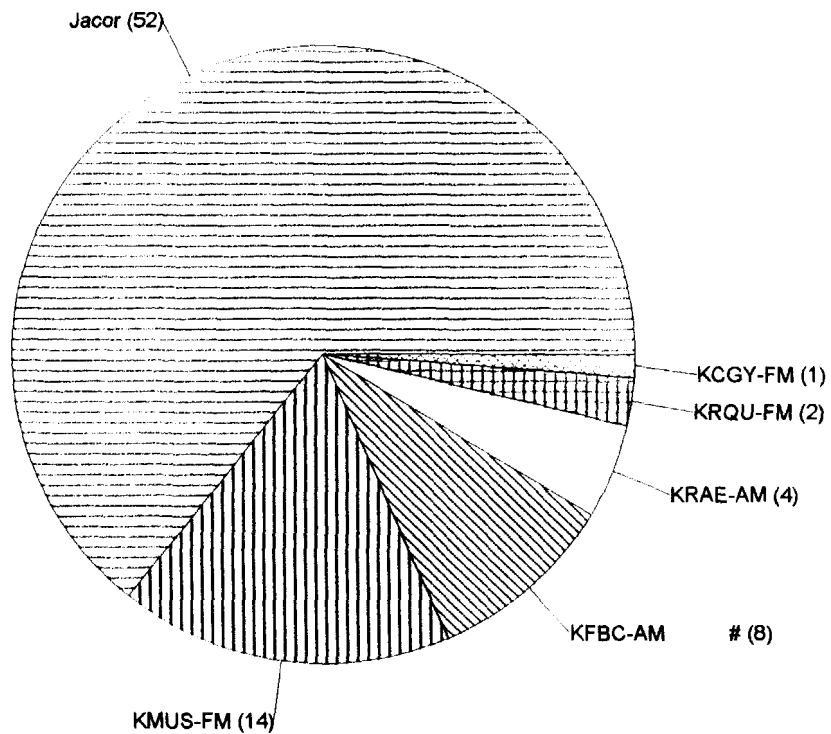
Jacor: KBPI-FM, KIGN-FM, KKAZ-FM, KLEN-FM, KOA -AM, KPAW-FM, KREFX-FM, KTCL-FM

Stations qualify to be reported if they have received five or more minutes of listening in at least 10 diaries in the market, Monday-Sunday, 6am-Midnight, during the survey period.

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CHEYENNE, WY RANKER

**Persons 18+ In The Metro
Mo- Su 6am- MID**



SPRING 1996

The Arbitron Company
 CHEYENNE, WY RANKER
 Persons 18 - 34 In The Metro
 Mo- Su 6am- MID
 User Selected Stations, Ranked by: Average Quarter-Hour Share
 SPRING 1996
 Sample Size: 89 Estimated Population(00): 196

STATIONS	AQH(00) PERSONS	AQH RATING	AQH SHARE	CUME(00) PERSONS	CUME RATING
-----	-----	-----	-----	-----	-----
Jacor	26	13.3	70.3	169	86.2
KMUS-FM	3	1.5	8.1	53	27.0
KRQU-FM	1	0.5	2.7	31	15.8
KCGY-FM	0	0.0	0.0	2	1.0
KFBC-AM #	0	0.0	0.0	7	3.6
KRAE-AM	0	0.0	0.0	5	2.6
-----	-----	-----	-----	-----	-----
MARKET TOTAL	37	18.9	100.0	187	95.4

Audience estimates adjusted for actual broadcast schedule.

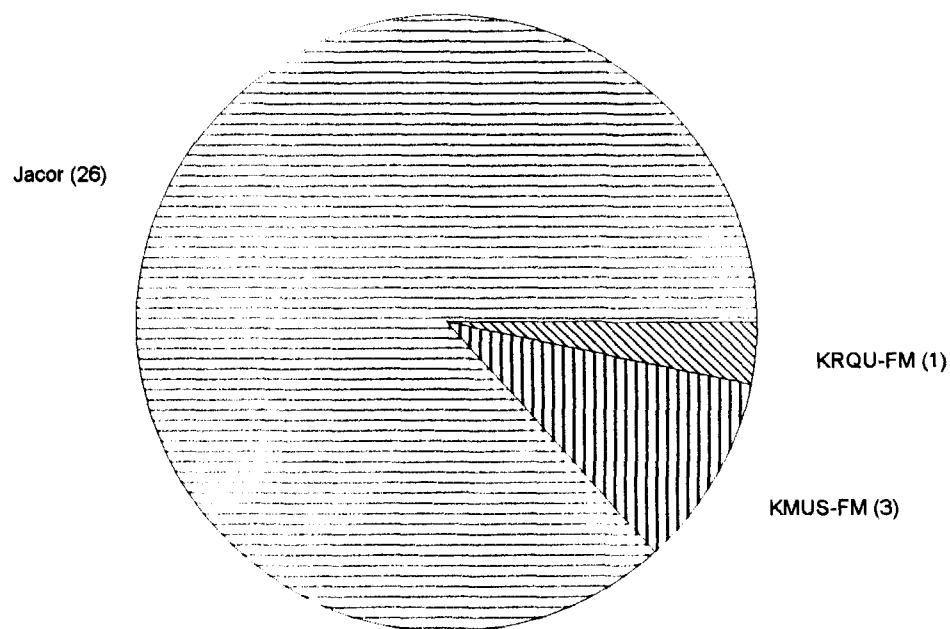
Jacor: KBPI-FM, KIGN-FM, KKAZ-FM, KLEN-FM, KOA -AM, KPAW-FM, KRFX-FM, KTCL-FM

Stations qualify to be reported if they have received five or more minutes of listening in at least 10 diaries in the market, Monday-Sunday, 6am-Midnight, during the survey period.

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CHEYENNE, WY RANKER

**Persons 18 - 34 In The Metro
Mo- Su 6am- MID**



SPRING 1996

The Arbitron Company
 CHEYENNE, WY RANKER
 Persons 18 - 49 In The Metro
 Mo- Su 6am- MID
 User Selected Stations, Ranked by: Average Quarter-Hour Share
 SPRING 1996
 Sample Size: 228 Estimated Population(00): 387

STATIONS	AQH(00) PERSONS	AQH RATING	AQH SHARE	CUME(00) PERSONS	CUME RATING
Jacor	44	11.4	62.0	307	79.3
KMUS-FM	7	1.8	9.9	104	26.9
KFBC-AM	2	0.5	2.8	44	11.4
KRAE-AM	2	0.5	2.8	33	8.5
KRQU-FM	2	0.5	2.8	55	14.2
KCGY-FM	0	0.0	0.0	13	3.4
MARKET TOTAL	71	18.3	100.0	376	97.2

Audience estimates adjusted for actual broadcast schedule.

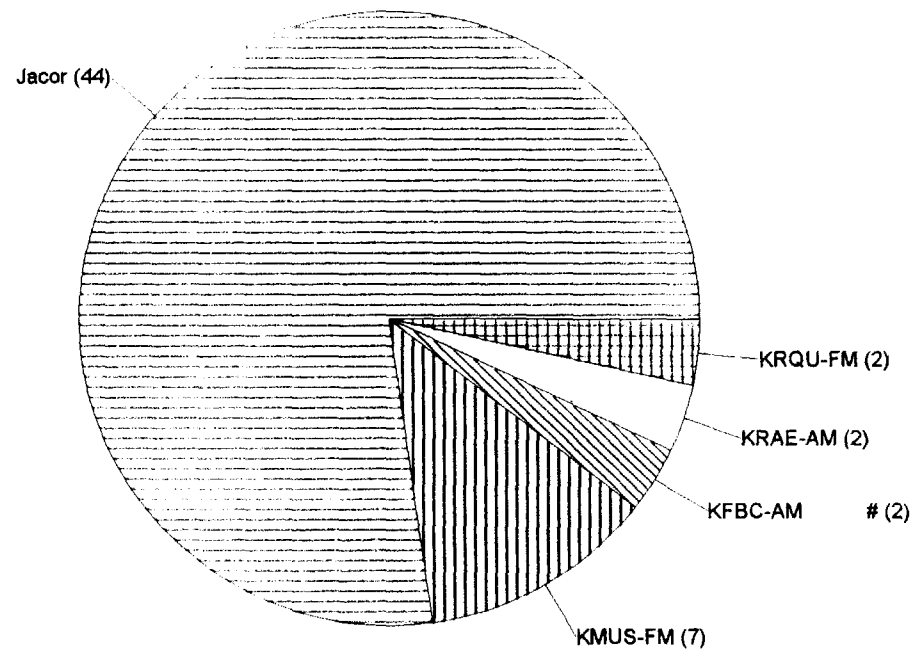
Jacor: KBPI-FM, KIGN-FM, KKAZ-FM, KLEN-FM, KOA -AM, KPAW-FM, KRFX-FM, KTCL-FM

Stations qualify to be reported if they have received five or more minutes of listening in at least 10 diaries in the market, Monday-Sunday, 6am-Midnight, during the survey period.

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CHEYENNE, WY RANKER

**Persons 18 - 49 In The Metro
Mo- Su 6am- MID**



SPRING 1996

The Arbitron Company
 CHEYENNE, WY RANKER
 Persons 25 - 54 In The Metro
 Mo- Su 6am- MID
 User Selected Stations, Ranked by: Average Quarter-Hour Share
 SPRING 1996
 Sample Size: 217 Estimated Population(00): 359

STATIONS	AQH(00) PERSONS	AQH RATING	AQH SHARE	CUME(00) PERSONS	CUME RATING
Jacor	41	11.4	59.4	281	78.3
KMUS-FM	8	2.2	11.6	98	27.3
KFBC-AM	3	0.8	4.3	50	13.9
KRAE-AM	3	0.8	4.3	45	12.5
KRQU-FM	2	0.6	2.9	46	12.8
KCGY-FM	0	0.0	0.0	14	3.9
MARKET TOTAL	69	19.2	100.0	355	98.9

Audience estimates adjusted for actual broadcast schedule.

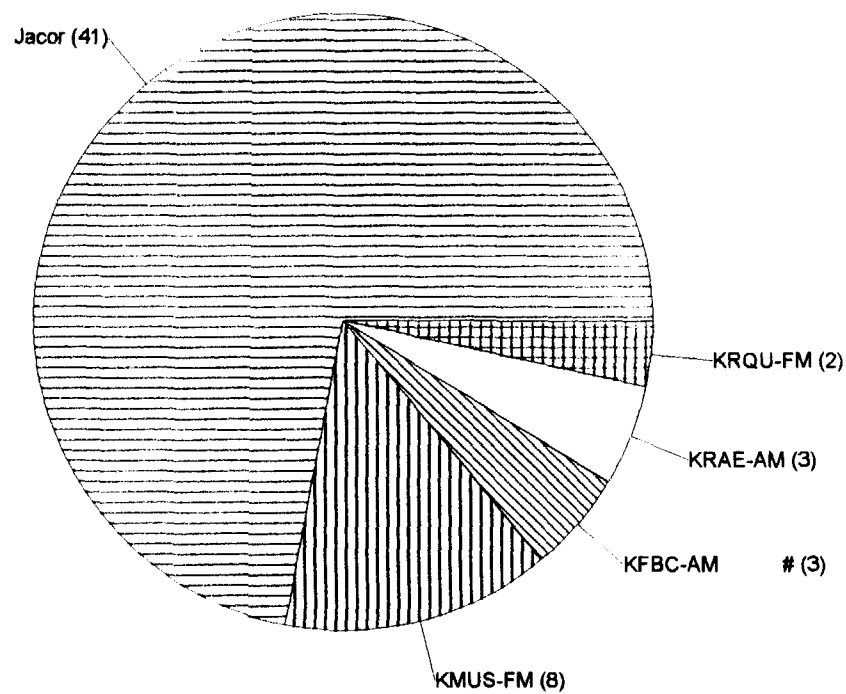
Jacor: KBPI-FM, KIGN-FM, KKAZ-FM, KLEN-FM, KOA -AM, KPAW-FM, KRFX-FM, KTCL-FM

Stations qualify to be reported if they have received five or more minutes of listening in at least 10 diaries in the market, Monday-Sunday, 6am-Midnight, during the survey period.

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CHEYENNE, WY RANKER

Persons 25 - 54 In The Metro
Mo- Su 6am- MID



SPRING 1996

Exhibit 3

Montgomery Broadcasting, L.L.C.

1806 Capitol Avenue
Cheyenne, WY 82001
(307) 634-4461

May 14, 1997

Irving Gastfreund, Esq.
Kaye, Scholer, Fierman, Hays & Handler, L.L.P.
901 Fifteenth Street, N.W.
Suite 1100
Washington, DC 20005-2327

Dear Irv,

Just a quick note about my conversations with EFM today. I was not paying a whole lot of attention so I found out just tonight that KGAB, the local AM which is part of the Jacor purchase here in Cheyenne, changed its format to News/Talk on Monday.

Today, Wednesday, I get a call from EFM with the news that my fee for Rush Limbaugh will increase by 249% for the coming year (from \$552.00 per month to \$1,375.00 per month) effective immediately. If I don't pay the increase then they will move Rush to another station in the market, guess which one that might be. Pretty slick, "We did not take Rush Limbaugh away from KFBC, they decided not to carry the program long before we took control of KGAB."

Very interesting that Jacor has a deal to purchase four stations in this market and the lone AM of that group goes News/Talk just days after the purchase is announced. KGAB joins the other five Jacor News/Talk AM's along the front range. And, if I don't agree to this huge increase Rush Limbaugh (who's owned by Jacor) will end up on the station in Cheyenne that Jacor will control if the sale goes through. Just for your information, three years ago Rush was a straight barter, two years ago we paid \$500.00 per month and this year we paid \$552.00 per month.

We may not be able to spell extortion out here in the sticks but we sure know it when we see it.

Also of interest is the fact that KCOL-AM, the Jacor controlled News/Talk station in Fort Collins forty miles south of here, pays the minimum rights fee for Rush because Fort Collins is not an Arbitron rated market. This despite the fact that Fort Collins is at least twice as large a market as Cheyenne.

I hope this information is of help.

Sincerely

David H. Montgomery
Managing Partner
Montgomery Broadcasting L.L.C.

KFBC
AM 1240

Wise Buys
Smart Country's #1 Shopping Guide

MRX
FM 105.5

CERTIFICATE OF SERVICE


I, Mary Odder, a secretary in the law firm of Kaye, Scholer, Fierman, Hays & Handler, LLP, do hereby certify that, on this 19th day of May, 1997, caused a copy of the foregoing "Comments Of Montgomery Broadcasting Limited Liability Company", to be sent via U.S. Mail, postage prepaid, or caused to be hand-delivered to the following:

John A. Karousos, Esq.
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau
Federal Communications Commission
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Washington, D.C. 20554

Sharon P. McDonald
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Tracy Broadcasting Corporation
P.O. Box 532
Scottsbluff, Nebraska 69363

Elizabeth A. Sims, Esq.
Irwin, Campbell & Tannenwald, P.C.
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Washington, D.C. 20036-3101


Mary Odder